

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

WILLIAM H. PAYNE, III,	:	Case No. 3:10-cv-463
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	Magistrate Judge Michael R. Merz
vs.	:	
	:	
PHIL PLUMMER, SHERIFF, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**DECISION AND ENTRY: (1) ADOPTING THE REPORT AND
RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE
(Doc. 7); AND (2) DISMISSING THIS ACTION WITHOUT PREJUDICE**

This civil case is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Michael R. Merz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court, and, on December 28, 2010, submitted a Report and Recommendations. (Doc. 7). The Plaintiff did not file Objections to the Report and Recommendations.¹

¹ Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the R&R in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). The Court notes that although such notice was served upon Plaintiff, it was returned to the Court due to Plaintiff's failure to apprise the Court of his change of address. Nonetheless, the failure to keep the Court apprised of his current address does not excuse an untimely filing of any objections. *See Theede v. United States Dep't of Labor*, 172 F.3d 1262, 1265 (10th Cir. 1999) (Failure to object to a Magistrate Judge's R&R due to delay resulting from party's failure to bring to the court's attention a change in address constitutes failure to object in a timely manner).

As required by 29 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this case. Upon consideration of the foregoing, the Court does determine that such Report and Recommendations should be and is hereby **ADOPTED** in its entirety.

Accordingly, Plaintiff's amended complaint is **DISMISSED** without prejudice.

IT IS SO ORDERED.

Date: 1/21/11

Timothy S. Black
Timothy S. Black
United States District Judge